

PROB 12C
(6/16)

Report Date: March 26, 2024

United States District Court

for the

Eastern District of WashingtonFILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON**Mar 26, 2024**

SEAN F. McAVOY, CLERK

Petition for Warrant or Summons for Offender Under Supervision

Name of Offender: Mark A. Preston

Case Number: 0980 2:22CR00133-TOR-16

Address of Offender: [REDACTED] Spokane, Washington 99202

Name of Sentencing Judicial Officer: The Honorable Thomas O. Rice, U.S. District Judge

Date of Original Sentence: January 25, 2024

Original Offense: Unlawful Access to Stored Communications, 18 U.S.C. § 2701(a)(1), (b)(2)(A)

Original Sentence: Probation - 36 Months

Type of Supervision: Probation

Asst. U.S. Attorney: Earl Allan Hicks

Date Supervision Commenced: January 25, 2024

Defense Attorney: Curran C. Dempsey

Date Supervision Expires: January 24, 2027

PETITIONING THE COURT

To **issue a WARRANT** and to incorporate the violation(s) contained in this petition in future proceedings with the violation(s) previously reported to the Court on 03/07/2024.

On January 30, 2024, Mr. Mark A. Preston signed his conditions relative to case number 2:22CR00133-TOR-16, indicating that he understood all conditions as ordered by the Court.

The probation officer believes that the offender has violated the following condition(s) of supervision:

<u>Violation Number</u>	<u>Nature of Noncompliance</u>
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	<u>Mandatory Condition #3:</u> You must refrain from any unlawful use of a controlled substance. You must submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.
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Supporting Evidence: Mr. Preston is alleged to have violated mandatory condition number 3 by ingesting methamphetamine on or about March 18, 2024, based on urinalysis testing.

Specifically, on March 18, 2024, Mr. Preston was contacted by the undersigned officer telephonically, and directed to report to the U.S. Probation Office to address a report from the contract provider that the client had previously failed to attend random urinalysis testing with the provider on March 14, 2024.

Mr. Preston subsequently reported as directed, albeit later than initially agreed, with Mr. Preston later indicating that he had a flat tire on a trailer he was pulling that he was required to address first. Mr. Preston adamantly denied that he had failed to attend random urinalysis testing with the contract provider, indicating he was in fact present on the day in question,

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and further adamantly denied that he had relapsed. Mr. Preston subsequently provided a urinalysis sample for testing that reflected as presumptive positive for methamphetamine. Mr. Preston signed a drug use denial form and the sample was forwarded to the lab for verification.

On March 26, 2024, the laboratory test result was received specific to the client's submitted urinalysis sample and confirmed the sample was positive for methamphetamine.

- 3 **Special Condition #4:** You must abstain from the use of illegal controlled substances, and must submit to urinalysis and sweat patch testing, as directed by the supervising officer, but no more than 6 tests per month, in order to confirm continued abstinence from these substances.

Supporting Evidence: Mr. Preston is alleged to have violated special condition number 4 by failing to attend random urinalysis testing with the contract provider on March 14, 2024.

Specifically, on March 15, 2024, the undersigned officer received notification from the federal urinalysis testing contract provider that the client had failed to attend random urinalysis testing with the provider on March 14, 2024, when his assigned color was called. At 12:17 p.m., on the day in question, Mr. Preston was sent a text message directing him to report to the U.S. Probation Office for testing, which Mr. Preston failed to abide by or respond to.

On March 18, 2024, the undersigned officer both left a voice mail and sent a text message to Mr. Preston directing him to report to the U.S. Probation Office for urinalysis testing. Mr. Preston subsequently reported as directed, and indicated he had not received the undersigned officer's text message, previously sent to him on March 15, 2024. In addition, Mr. Preston was adamant that he had attended urinalysis testing with the contract provider on March 14, 2024.

As a part of the meeting with Mr. Preston, the urinalysis testing provider was contacted by the undersigned officer telephonically to address the inconsistency, during which the provider explained their process for urinalysis testing, to include client and staff requirements, such as the client signing in upon arrival and signing their name after submitting a sample, and staff's requirement to enter a case note after client testing. The provider indicated that the client did not sign either log as required, and that staff case notes described the client as having failed to report for testing on the day in question. The provider again indicated that based on the information available, Mr. Preston did not report for urinalysis testing on March 14, 2024, despite his argument to the contrary.

The U.S. Probation Office respectfully recommends the Court to incorporate the violation(s) contained in this petition in future proceedings with the violation(s) previously reported to the Court, and that the Court **issue a WARRANT**.

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I declare under penalty of perjury that the foregoing is true and correct.

Executed on: March 26, 2024

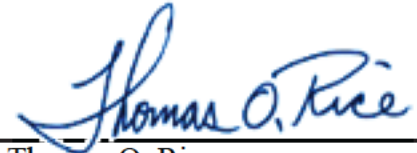
s/Chris Heinen

Chris Heinen

U.S. Probation Officer

THE COURT ORDERS

- ☐ No Action
- ☒ The Issuance of a Warrant
- ☐ The Issuance of a Summons
- ☒ The incorporation of the violation(s) contained in this petition with the other violations pending before the Court.
- ☐ Defendant to appear before the Judge assigned to the case.
- ☒ Defendant to appear before the Magistrate Judge.
- ☐ Other



Thomas O. Rice

United States District Judge

March 26, 2024

Date